

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY
STATE OF MISSOURI

FILED

MAR - 5 2004

CHARLES THORNTON,

Plaintiff,

v.

CITY OF KIRKWOOD
and KEN YOST,

Defendants.

Case No. 03CC-003926

Division 9

JOAN M. GILMER
CIRCUIT CLERK, ST. LOUIS COUNTY

ORDER AND JUDGMENT

Defendants' Motion for Summary Judgment and Defendants' Memorandum in Support, Supplemental Memorandum in Support/Motion to Dismiss, affidavits and other information submitted by Defendants in Support thereof, have been presented and considered by the Court. All pleadings, documents and information filed by Plaintiff in response to Defendants' Motion for Summary Judgment have also been considered by the Court. The Court, being totally advised in the premises, finds and orders that Defendants are entitled to a judgment as a matter of law on all of Plaintiff's claims.

Based upon the uncontroverted material facts, the Court finds that Defendants are entitled to a Summary Judgment as a matter of law on Plaintiff's claim for malicious prosecution because Plaintiff has failed to properly plead sufficient facts and has failed to rebut uncontroverted facts so as to properly assert that the relevant charges were issued without probable cause. In addition, Plaintiff has not, as a matter of law, alleged sufficient facts that plead and prove that the relevant proceedings terminated in Plaintiff's favor.

The Court also finds that based upon the uncontroverted material facts, including the document and affidavit submitted with Defendants' Motion for Summary Judgment,

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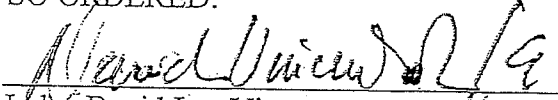
Memorandum in Support thereof, that Defendant Ken Yost is entitled to a judgment on Plaintiff's claim for malicious prosecution based upon Official Immunity, and that Defendant City of Kirkwood is entitled to a judgment on Plaintiff's claim for malicious prosecution based upon Sovereign Immunity.

This Court granted Plaintiff leave to file amended pleadings on two separate occasions, and this Court finds that the Amended Pleadings of Plaintiff fail, as a matter of law, to state a claim under 42 U.S.C. §1983. Plaintiff failed to allege any deprivation of constitutional rights resulting from a policy or custom of the City of Kirkwood, and has failed to allege sufficient facts to support an underlying cause of action under 42 U.S.C. §1983.

WHEREFORE, it is Ordered and Adjudged that Defendant's Motion for Summary Judgment is hereby granted and all of Plaintiff's claims against Defendant, Ken Yost and Defendant, City of Kirkwood are dismissed with prejudice.

Court costs to be assessed against Plaintiff.

SO ORDERED:


Judge David Lee Vincent III
Division 9

Entered this 5th day of March, 2004

cc: Charles Lee Thornton, Plaintiff-Pro Se
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